

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**PROGRESSIVE NORTHERN  
INSURANCE COMPANY,  
Plaintiff,**

**V.**

**NO.: 02-4026**

**JUSTINE COLEMAN, JOSEPH H. COLEMAN, JR., and IVETTE PIZARRO,**  
**Defendants.**

**TRIAL MEMORANDUM OF THE PLAINTIFF,**  
**PROGRESSIVE NORTHERN INSURANCE COMPANY**

**I. Exhibits.**

P-1. Insurance policy issued by Progressive Northern Insurance Company to Justine Coleman.

P-2. Police report, including crime investigation reports prepared by Officer Keith Merkel.

P-3. Recorded statement of Justine Coleman.

P-4(a-x). Photographs of the vehicle of Joseph Coleman.

P-5(a-l). Photographs of vehicle of Justine Coleman.

P-6. Protection from Abuse documents.

## II. Expert Witnesses.

Plaintiff does not anticipate any expert witnesses to be called at the time of trial.

### III. Curriculum Vitae of Witnesses.

N/A

**IV. Fact Witnesses.**

1. Joseph Coleman  
505 North 10<sup>th</sup> Street, Apartment 1111  
Reading, PA 19602  
--Joseph Coleman will testify as to the facts surrounding the motor vehicle accident.
2. Ivette Pizarro  
300 Lackawanna Street, Apartment 1U  
Reading, PA 19603  
--Ivette Pizarro will testify as to the facts surrounding the motor vehicle accident.
3. Justine Coleman Morrison  
P.O. Box 6852  
Wyomissing, PA 19610  
--Justine Coleman Morrison will testify as to the facts surrounding the motor vehicle accident.
4. Officer Keith Merkel  
--Officer Merkel will testify as to his investigation of the accident.
5. Sissy Rhodes  
310 Miller Street  
Reading, PA  
--Ms. Rhodes will testify as to the facts surrounding the accident.
6. Veda Doctor  
1253 Cotton Street  
Reading, PA 19602  
--Ms. Doctor will testify as to the facts and circumstances surrounding the accident.

**V. Damages and/or Relief Sought.**

This is a Declaratory Judgment Action. Progressive Northern Insurance Company seeks a ruling that it has no obligation to defend or indemnify Justine Coleman for claims arising out of the May 19, 2000 motor vehicle accident.

**VI. Significant and/or Unique Legal and Procedural Issues.**

Initially, in order for coverage to be available under the policy, the claim must arise out of an "accident". It is submitted that the Defendants will have the burden of proof in establishing that an "accident" occurred. See Firemen's Fund Insurance Company v. Videfreeze Corp., 540 F.2d 1171 (3d.Cir. 1976); Allstate Insurance Company v. Sprout, 782 F.Supp. 999 (M.D.Pa. 1991).

**VII. Names and Addresses of All Parties at the Time the Cause of Action Arose and Presently.****Cause of Action****Presently**

Joseph Coleman

132 North 3<sup>rd</sup> Street, Apartment B-Rear  
Reading, PA 19602505 North 10<sup>th</sup> Street, Apartment 1111  
Reading, PA 19602

Ivette Pizarro

300 Lackawanna Street, Apartment 1U  
Reading, PA 19603300 Lackawanna Street, Apartment 1U  
Reading, PA 19603

Justine Coleman Morrison

1052 North 11<sup>th</sup> Street  
Reading, PA 19604P.O. Box 6852  
Wyomissing, PA 19610

Progressive Northern Insurance Company

5053 Ritter Road, Suite 101  
Mechanicsburg, PA 170555053 Ritter Road, Suite 101  
Mechanicsburg, PA 17055**VIII. Trial Counsel.**

Richard T. Kupersmith, Esquire

EISENBERG, ROTHWEILER

SCHLEIFER, WEINSTEIN &amp;

WINKLER, P.C.

1634 Spruce Street

Philadelphia, PA 19103

215/546-6610

Counsel for Defendants Joseph H.  
Coleman, Jr. and Ivette Pizarro

James G. Nealon, III, Esquire

NEALON &amp; GOVER, P.C.

2411 North Front Street

Harrisburg, PA 17110

717/232-9900

Counsel for Plaintiff, Progressive  
Northern Insurance Company

Jesse L. Pleet, Esquire  
LAW OFFICES OF JESSE L. PLEET, P.C.  
1150 Berkshire Boulevard, Suite 200  
Wyomissing, PA 19610  
610/373-8570  
Counsel for Defendant Justine  
Coleman Morrison

**IX. Matters of Importance for the Efficient Trial of the Case.**

None.

Respectfully submitted,

NEALON & GOVER, P.C.

By: s/James G. Nealon, III, Esquire  
James G. Nealon, III, Esquire  
I.D. #: 46457  
2411 North Front Street  
Harrisburg, PA 17110  
717/232-9900

Date: 08/01/03

**CERTIFICATE OF SERVICE**

**AND NOW**, this \_\_\_\_\_ day of July, 2003, I hereby certify that I have served the foregoing TRIAL MEMORANDUM on the following by Federal Express addressed to:

Richard T. Kupersmith, Esquire  
EISENBERG, ROTHWEILER, SCHLEIFER,  
WEINSTEIN & WINKLER, P.C.  
1634 Spruce Street  
Philadelphia, PA 19103

Jesse L. Pleet, Esquire  
LAW OFFICES OF JESSE L. PLEET, P.C.  
1150 Berkshire Boulevard, Suite 220  
Wyomissing, PA 19610

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James G. Nealon, III, Esquire